

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**ARTHUR LEIGHTON VERNE**

**Registered Nurse License No. 299093  
Nurse Anesthetist Certificate No. 38**

Respondent .

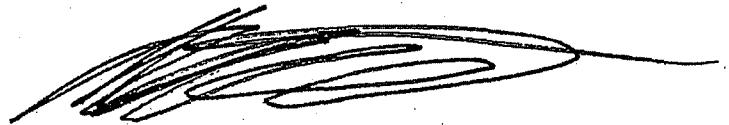
Case No. 2012-197  
OAH No. L-2011100896

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 20, 2012.

IT IS SO ORDERED July 20, 2012.



Erin Niemela  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-197

11 **ARTHUR LEIGHTON VERNE**

OAH No. L-2011100896

12 9437 Old Stage Road  
13 Agua Dulce, CA 91390

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Registered Nurse License No. 299093  
15 Nurse Anesthetist Certificate No. 38

16 Respondent.

17  
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer  
20 Affairs ("Board"), the parties hereby agree to the following Stipulated Settlement and  
21 Disciplinary Order which will be submitted to the Board for approval and adoption as the final  
22 disposition of the Accusation.

23 **PARTIES**

24 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
25 Board of Registered Nursing. She brought this action solely in her official capacity and is  
26 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
27 Katherine Messana, Deputy Attorney General.  
28

2. Respondent Arthur Leighton Verne ("Respondent") is represented in this proceeding by attorney Mark W. King, whose address is:

Law Offices of Mark W. King

2100 Tulare St. Suite 410

Fresno, CA 93721-2111

3. On or about January 31, 1979, the Board of Registered Nursing issued Registered Nurse License No. 299093 to Arthur Leighton Verne. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-197 and will expire on September 30, 2012, unless renewed.

4. On or about February 14, 1984, the Board of Registered Nursing issued Nurse Anesthetist Certificate No. 38 to Arthur Leighton Verne. The Nurse Anesthetist Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-197 and will expire on September 30, 2012; unless renewed.

## JURISDICTION

5. First Amended Accusation No. 2012-197 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The initial Accusation and all other statutorily required documents were properly served on Respondent on September 30, 2011. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on May 8, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

6. A copy of First Amended Accusation No. 2012-197 is attached as **Exhibit A** and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 2012-197. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

1       8. Respondent is fully aware of his legal rights in this matter, including the right to a  
2 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
3 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
4 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
5 the attendance of witnesses and the production of documents; the right to reconsideration and  
6 court review of an adverse decision; and all other rights accorded by the California  
7 Administrative Procedure Act and other applicable laws.

8       9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
9 every right set forth above.

#### 10                                   CULPABILITY

11       10. Respondent admits the truth of each and every charge and allegation in First  
12 Amended Accusation No. 2012-197.

13       11. Respondent agrees that his Registered Nurse License is subject to discipline and he  
14 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### 15                                   CONTINGENCY

16       12. This stipulation shall be subject to approval by the Board of Registered Nursing.  
17 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
18 Registered Nursing may communicate directly with the Board regarding this stipulation and  
19 settlement, without notice to or participation by Respondent or his counsel. By signing the  
20 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
21 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
22 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
23 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
24 action between the parties, and the Board shall not be disqualified from further action by having  
25 considered this matter.

26       13. The parties understand and agree that facsimile copies of this Stipulated Settlement  
27 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
28 effect as the originals.



1           2.     **Comply with the Board's Probation Program.** Respondent shall fully comply with  
2 the conditions of the Probation Program established by the Board and cooperate with  
3 representatives of the Board in its monitoring and investigation of the Respondent's compliance  
4 with the Board's Probation Program. Respondent shall inform the Board in writing within no  
5 more than 15 days of any address change and shall at all times maintain an active, current license  
6 status with the Board, including during any period of suspension.

7           Upon successful completion of probation, Respondent's license and certificate shall be fully  
8 restored.

9           3.     **Report in Person.** Respondent, during the period of probation, shall appear in  
10 person at interviews/meetings as directed by the Board or its designated representatives.

11          4.     **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
12 practice as a registered nurse outside of California shall not apply toward a reduction of this  
13 probation time period. Respondent's probation is tolled, if and when he resides outside of  
14 California. Respondent must provide written notice to the Board within 15 days of any change of  
15 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
16 returning to practice in this state.

17          Respondent shall provide a list of all states and territories where he has ever been licensed  
18 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide  
19 information regarding the status of each license and any changes in such license status during the  
20 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing  
21 license during the term of probation.

22          5.     **Submit Written Reports.** Respondent, during the period of probation, shall submit  
23 or cause to be submitted such written reports/declarations and verification of actions under  
24 penalty of perjury, as required by the Board. These reports/declarations shall contain statements  
25 relative to Respondent's compliance with all the conditions of the Board's Probation Program.  
26 Respondent shall immediately execute all release of information forms as may be required by the  
27 Board or its representatives.

28          Respondent shall provide a copy of this Decision to the nursing regulatory agency in every

1 state and territory in which he has a registered nurse license.

2       **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall  
3 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
4 6 consecutive months or as determined by the Board.

5       For purposes of compliance with the section, "engage in the practice of registered nursing"  
6 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
7 non-direct patient care position that requires licensure as a registered nurse.

8       The Board may require that advanced practice nurses engage in advanced practice nursing  
9 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

10       If Respondent has not complied with this condition during the probationary term, and  
11 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
12 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
13 extension of Respondent's probation period up to one year without further hearing in order to  
14 comply with this condition. During the one year extension, all original conditions of probation  
15 shall apply.

16       **7. Employment Approval and Reporting Requirements.** Respondent shall obtain  
17 prior approval from the Board before commencing or continuing any employment, paid or  
18 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
19 performance evaluations and other employment related reports as a registered nurse upon request  
20 of the Board.

21       Respondent shall provide a copy of this Decision to his employer and immediate  
22 supervisors prior to commencement of any nursing or other health care related employment.

23       In addition to the above, Respondent shall notify the Board in writing within seventy-two  
24 (72) hours after he obtains any nursing or other health care related employment. Respondent  
25 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
26 regardless of cause, from any nursing, or other health care related employment with a full  
27 explanation of the circumstances surrounding the termination or separation.

28 ///

1       8.    **Supervision.** Respondent shall obtain prior approval from the Board regarding  
2 Respondent's level of supervision and/or collaboration before commencing or continuing any  
3 employment as a registered nurse, or education and training that includes patient care.

4       Respondent shall practice only under the direct supervision of a registered nurse in good  
5 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
6 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
7 approved.

8       Respondent's level of supervision and/or collaboration may include, but is not limited to the  
9 following:

10       (a)   Maximum - The individual providing supervision and/or collaboration is present in  
11 the patient care area or in any other work setting at all times.

12       (b)   Moderate - The individual providing supervision and/or collaboration is in the patient  
13 care unit or in any other work setting at least half the hours Respondent works.

14       (c)   Minimum - The individual providing supervision and/or collaboration has person-to-  
15 person communication with Respondent at least twice during each shift worked.

16       (d)   Home Health Care - If Respondent is approved to work in the home health care  
17 setting, the individual providing supervision and/or collaboration shall have person-to-person  
18 communication with Respondent as required by the Board each work day. Respondent shall  
19 maintain telephone or other telecommunication contact with the individual providing supervision  
20 and/or collaboration as required by the Board during each work day. The individual providing  
21 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
22 patients' homes visited by Respondent with or without Respondent present.

23       9.    **Employment Limitations.** Respondent shall not work for a nurse's registry, in any  
24 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
25 or for an in-house nursing pool.

26       Respondent shall not work for a licensed home health agency as a visiting nurse unless the  
27 registered nursing supervision and other protections for home visits have been approved by the  
28 Board. Respondent shall not work in any other registered nursing occupation where home visits



1 are required.

2 Respondent shall not work in any health care setting as a supervisor of registered nurses.  
3 The Board may additionally restrict Respondent from supervising licensed vocational nurses  
4 and/or unlicensed assistive personnel on a case-by-case basis.

5 Respondent shall not work as a faculty member in an approved school of nursing or as an  
6 instructor in a Board approved continuing education program.

7 Respondent shall work only on a regularly assigned, identified and predetermined  
8 worksite(s) and shall not work in a float capacity.

9 If Respondent is working or intends to work in excess of 40 hours per week, the Board may  
10 request documentation to determine whether there should be restrictions on the hours of work.

11 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and  
12 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
13 months prior to the end of his probationary term.

14 Respondent shall obtain prior approval from the Board before enrolling in the course(s).  
15 Respondent shall submit to the Board the original transcripts or certificates of completion for the  
16 above required course(s). The Board shall return the original documents to Respondent after  
17 photocopying them for its records.

18 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its  
19 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
20 amount of \$3,832.50. Respondent shall be permitted to pay these costs in a payment plan  
21 approved by the Board, with payments to be completed no later than three months prior to the end  
22 of the probation term.

23 If Respondent has not complied with this condition during the probationary term, and  
24 Respondent has presented sufficient documentation of his good faith efforts to comply with this  
25 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
26 extension of Respondent's probation period up to one year without further hearing in order to  
27 comply with this condition. During the one year extension, all original conditions of probation  
28 will apply.

1       **12. Violation of Probation.** If Respondent violates the conditions of his probation, the  
2 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order  
3 and impose the stayed discipline (revocation/suspension) of Respondent's license and certificate.

4       If during the period of probation, an accusation or petition to revoke probation has been  
5 filed against Respondent's license and/or certificate or the Attorney General's Office has been  
6 requested to prepare an accusation or petition to revoke probation against Respondent's license  
7 and/or certificate, the probationary period shall automatically be extended and shall not expire  
8 until the accusation or petition has been acted upon by the Board.

9       **13. License Surrender.** During Respondent's term of probation, if he ceases practicing  
10 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
11 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
12 Respondent's request and to exercise its discretion whether to grant the request, or to take any  
13 other action deemed appropriate and reasonable under the circumstances, without further hearing.  
14 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be  
15 subject to the conditions of probation.

16       Surrender of Respondent's license and/or certificate shall be considered a disciplinary  
17 action and shall become a part of Respondent's license history with the Board. A registered nurse  
18 whose license has been surrendered may petition the Board for reinstatement no sooner than the  
19 following minimum periods from the effective date of the disciplinary decision:

20       (1) Two years for reinstatement of a license that was surrendered for any reason other  
21 than a mental or physical illness; or

22       (2) One year for a license surrendered for a mental or physical illness.

23       **14. Physical Examination.** Within 45 days of the effective date of this Decision,  
24 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician  
25 assistant, who is approved by the Board before the assessment is performed, submit an  
26 assessment of the Respondent's physical condition and capability to perform the duties of a  
27 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
28 medically determined, a recommended treatment program will be instituted and followed by the

1 Respondent with the physician, nurse practitioner, or physician assistant providing written reports  
2 to the Board on forms provided by the Board.

3 If Respondent is determined to be unable to practice safely as a registered nurse, the  
4 licensed physician, nurse practitioner, or physician assistant making this determination shall  
5 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
6 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall  
7 immediately cease practice and shall not resume practice until notified by the Board. During this  
8 period of suspension, Respondent shall not engage in any practice for which a license issued by  
9 the Board is required until the Board has notified Respondent that a medical determination  
10 permits Respondent to resume practice. This period of suspension will not apply to the reduction  
11 of this probationary time period.

12 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
13 requirement, Respondent shall immediately cease practice and shall not resume practice until  
14 notified by the Board. This period of suspension will not apply to the reduction of this  
15 probationary time period. The Board may waive or postpone this suspension only if significant,  
16 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
17 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
18 Only one such waiver or extension may be permitted.

19 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

20 Respondent, at his expense, shall successfully complete during the probationary period or shall  
21 have successfully completed prior to commencement of probation a Board-approved  
22 treatment/rehabilitation program of at least six months duration. As required, reports shall be  
23 submitted by the program on forms provided by the Board. If Respondent has not completed a  
24 Board-approved treatment/rehabilitation program prior to commencement of probation,  
25 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.  
26 If a program is not successfully completed within the first nine months of probation, the Board  
27 shall consider Respondent in violation of probation.

28 Based on Board recommendation, each week Respondent shall be required to attend at least

one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall completely abstain from the possession, injection or consumption by any route of all controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

17. **Submit to Tests and Samples.** Respondent, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible

1 for keeping the Board informed of Respondent's current telephone number at all times.

2 Respondent shall also ensure that messages may be left at the telephone number when he is not  
3 available and ensure that reports are submitted directly by the testing agency to the Board, as  
4 directed. Any confirmed positive finding shall be reported immediately to the Board by the  
5 program and Respondent shall be considered in violation of probation.

6 In addition, Respondent, at any time during the period of probation, shall fully cooperate  
7 with the Board or any of its representatives, and shall, when requested, submit to such tests and  
8 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
9 hypnotics, dangerous drugs, or other controlled substances.

10 If Respondent has a positive drug screen for any substance not legally authorized and not  
11 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
12 files a petition to revoke probation or an accusation, the Board may suspend Respondent from  
13 practice pending the final decision on the petition to revoke probation or the accusation. This  
14 period of suspension will not apply to the reduction of this probationary time period.

15 If Respondent fails to participate in a random, biological fluid testing or drug screening  
16 program within the specified time frame, Respondent shall immediately cease practice and shall  
17 not resume practice until notified by the Board. After taking into account documented evidence  
18 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
19 suspend Respondent from practice pending the final decision on the petition to revoke probation  
20 or the accusation. This period of suspension will not apply to the reduction of this probationary  
21 time period.

22 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date  
23 of this Decision, have a mental health examination including psychological testing as appropriate  
24 to determine his capability to perform the duties of a registered nurse. The examination will be  
25 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by  
26 the Board. The examining mental health practitioner will submit a written report of that  
27 assessment and recommendations to the Board. All costs are the responsibility of Respondent.  
28 Recommendations for treatment, therapy or counseling made as a result of the mental health

1 examination will be instituted and followed by Respondent.

2 If Respondent is determined to be unable to practice safely as a registered nurse, the  
3 licensed mental health care practitioner making this determination shall immediately notify the  
4 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
5 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
6 practice and may not resume practice until notified by the Board. During this period of  
7 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
8 is required, until the Board has notified Respondent that a mental health determination permits  
9 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
10 probationary time period.

11 If Respondent fails to have the above assessment submitted to the Board within the 45-day  
12 requirement, Respondent shall immediately cease practice and shall not resume practice until  
13 notified by the Board. This period of suspension will not apply to the reduction of this  
14 probationary time period. The Board may waive or postpone this suspension only if significant,  
15 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
16 by Respondent to obtain the assessment, and a specific date for compliance must be provided.  
17 Only one such waiver or extension may be permitted.

18 **19. Therapy or Counseling Program.** Respondent, at his expense, shall participate in  
19 an on-going counseling program until such time as the Board releases him from this requirement  
20 and only upon the recommendation of the counselor. Written progress reports from the counselor  
21 will be required at various intervals.

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1 ACCEPTANCE

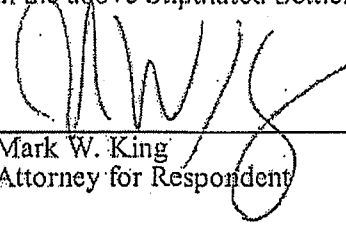
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Mark W. King. I understand the stipulation and the effect it will  
4 have on my Registered Nurse License, and Nurse Anesthetist Certificate. I enter into this  
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
6 to be bound by the Decision and Order of the Board of Registered Nursing.

7 DATED: 5-8-12

8   
ARTHUR LEIGHTON VERNE  
Respondent

9 I have read and fully discussed with Respondent Arthur Leighton Verne the terms and  
10 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
11 I approve its form and content.

12 DATED: 5/8/12

13   
Mark W. King  
Attorney for Respondent


14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
16 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
17 Affairs.  
18

19 Dated:

20 Respectfully submitted,

21 KAMALA D. HARRIS  
Attorney General of California  
22 GLORIA A. BARRIOS  
Supervising Deputy Attorney General

23   
24 KATHERINE MESSANA  
25 Deputy Attorney General  
26 Attorneys for Complainant

27 LA2011600881  
28 51106039.doc

**Exhibit A**

**First Amended Accusation No. 2012-197**



1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE M. MESSANA  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-197

12 **ARTHUR LEIGHTON VERNE**

13 9437 Old Stage Road  
14 Agua Dulce, CA 91390

**FIRST AMENDED ACCUSATION**

15 Registered Nurse License No. 299093  
Nurse Anesthetist Certificate No. NA 38

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs ("Board").

22 2. On or about January 31, 1979, the Board issued Registered Nurse License No.  
23 299093 to Arthur Leighton Verne ("Respondent"). The Registered Nurse License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on September  
25 30, 2012, unless renewed.

26 ///

27 ///

28 ///

1           3.    On or about February 14, 1984, the Board issued Nurse Anesthetist Certificate No.  
2   NA 38 to Arthur Leighton Verne. The Nurse Anesthetist Certificate was in full force and effect  
3   at all times relevant to the charges brought herein and will expire on September 30, 2012, unless  
4   renewed.

5                           **JURISDICTION AND STATUTORY PROVISIONS**

6           4.    This Accusation is brought before the Board under the authority of the following  
7   laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
8   indicated.

9           5.    Section 2750 of the Code provides that the Board may discipline any licensee,  
10   including a licensee holding a temporary or an inactive license, for any reason provided in Article  
11   3 (commencing with section 2750) of the Nursing Practice Act.

12          6.    Section 2764 of the Code provides that the expiration of a license shall not deprive  
13   the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to  
14   render a decision imposing discipline on the license. Under section 2811, subdivision (b), the  
15   Board may renew an expired license at any time within eight (8) years after the expiration.

16          7.    Section 118, subdivision (b) of the Code also provides that the suspension, expiration,  
17   surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
18   disciplinary action during the period within which the license may be renewed, restored, reissued  
19   or reinstated.

20          8.    Section 490 of the Code provides that a board may suspend or revoke a license on the  
21   ground that the licensee has been convicted of a crime substantially related to the qualifications,  
22   functions, or duties of the business or profession for which the license was issued.

23          9.    Section 2761 of the Code states, in pertinent part:

24                   "The board may take disciplinary action against a certified or licensed  
25   nurse or deny an application for a certificate or license for any of the following:

26                   (a) Unprofessional conduct, which includes, but is not limited to, the  
27   following:

27                   ...

28                   (d) Violating or attempting to violate, directly or indirectly, or assisting

1 in or abetting the violating of, or conspiring to violate any provision or term of this  
2 chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

...

3 (f) Conviction of a felony or of any offense substantially related to the  
4 qualifications, functions, and duties of a registered nurse, in which event the record of  
5 the conviction shall be conclusive evidence thereof. . . ."

10. Section 2762 of the Code states, in pertinent part:

6 "In addition to other acts constituting unprofessional conduct within the  
7 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
8 person licensed under this chapter to do any of the following:

...

9 (b) Use any controlled substance as defined in Division 10 (commencing  
10 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
11 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
12 in a manner dangerous or injurious to himself or herself, any other person, or the  
13 public or to the extent that such use impairs his or her ability to conduct with safety to  
14 the public the practice authorized by his or her license.

13 (c) Be convicted of a criminal offense involving the prescription,  
14 consumption, or self-administration of any of the substances described in  
15 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
16 record pertaining to, the substances described in subdivision (a) of this section, in  
17 which event the record of the conviction is conclusive evidence thereof. . . ."

#### REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444 states, in pertinent part:

18 "A conviction or act shall be considered to be substantially related to the  
19 qualifications, functions or duties of a registered nurse if to a substantial degree it  
20 evidences the present or potential unfitness of a registered nurse to practice in a  
21 manner consistent with the public health, safety, or welfare..."

#### COST RECOVERY

21 12. Section 125.3 of the Code provides that the Board may request the administrative law  
22 judge to direct a licensee found to have committed a violation or violations of the licensing act to  
23 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1                                    **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

2            13. Flexeril is a muscle relaxant, and is a dangerous drug pursuant to section 4022.

3            14. ~~Vicodin is a trade name for the narcotic substance hydrocodone or dihydrocodeinone~~  
4 with the non-narcotic substance acetaminophen (pain reliever and fever reducer). Vicodin is a  
5 Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision  
6 (e), and is a dangerous drug pursuant to section 4022.

7                                    **FIRST CAUSE FOR DISCIPLINE**

8                                    **(Conviction of Substantially Related Crime)**

9            15. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision  
10 (f) of the Code in that on or about September 20, 2010, Respondent was convicted of a  
11 substantially related crime, as follows:

12            a. On or about September 20, 2010, after pleading nolo contendere and admitting to  
13 liability, Respondent was convicted of one misdemeanor count of violating Vehicle Code section  
14 23152, subdivision (a) [driving under the influence of drugs/alcohol] in the criminal proceeding  
15 entitled *The People of the State of California v. Arthur Leighton Verne* (Super. Ct. Los Angeles  
16 County, 2010, No. 0NW01459). The Court placed Respondent on 36 months probation. The  
17 Court also ordered Respondent to complete a 3-month First-Offender Alcohol and Other Drug  
18 Education and Counseling Program, pay victim restitution, and to pay fines or serve 13 days in  
19 Los Angeles County Jail.

20            b. The circumstances underlying the conviction are that on or about March 6, 2010,  
21 Respondent caused a traffic collision by driving his vehicle into the rear of another vehicle  
22 stopped at a stop sign while under the influence of alcohol and two (2) prescribed medications:  
23 Flexeril and Vicodin. Respondent's Blood Alcohol Content was 0.132/0.134%.

24                                    **SECOND CAUSE FOR DISCIPLINE**

25                                    **(Alcohol/Drug Related Conviction)**

26            16. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
27 defined in section 2762, subdivision (c) of the Code in that on or about September 20, 2010,  
28 Respondent sustained a criminal conviction involving the consumption of drugs, albeit prescribed

1 medications, and alcoholic beverages. Complainant refers to and by this reference incorporates  
2 the allegations set forth above in paragraph 15, subparagraph (a), inclusive, as though set forth  
3 fully.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol/Drugs)**

6 17. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
7 defined in section 2762, subdivision (b), in that on or about March 6, 2010, Respondent used  
8 dangerous drugs and alcoholic beverages to an extent or in a manner dangerous or injurious to  
9 himself or others. Complainant refers to and by this reference incorporates the allegations set  
10 forth above in paragraph 15, subparagraph (a), inclusive, as though set forth fully.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct / Violate Nursing Practice Act)**

13 18. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and  
14 (d), in that Respondent committed acts of unprofessional conduct and acts violating the Nursing  
15 Practice Act. Complainant refers to and by this reference incorporates the allegations set forth  
16 above in paragraphs 15 through 17, inclusive, as though set forth fully.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

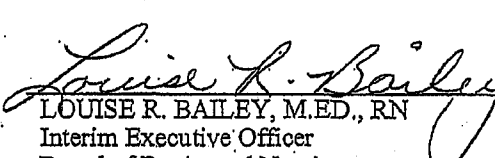
4 1. Revoking or suspending Registered Nurse License No. 299093, issued to Arthur  
5 Leighton Verne;

6 2. Revoking or suspending Nurse Anesthetist Certificate No. NA 38, issued to Arthur  
7 Leighton Verne;

8 3. Ordering Arthur Leighton Verne to pay the Board of Registered Nursing the  
9 reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

10 4. Taking such other and further action as deemed necessary and proper.  
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12

13 DATED: May 08, 2012

  
14 LOUISE R. BAILEY, M.ED., RN  
15 Interim Executive Officer  
16 Board of Registered Nursing  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
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